

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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HENRY HEGEL,  
for himself and others similarly situated,

Plaintiffs,

v.

Case No. 09-C-882

BRUNSWICK CORPORATION,<sup>1</sup>

Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION TO DISMISS  
PLAINTIFF'S SECOND CAUSE OF ACTION**

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This is a putative class action for compensation allegedly owed under a cost reduction incentive plan provided by Mercury Marine, an operating division of defendant Brunswick Corporation. The named plaintiff, Henry Hegel, alleges breach of contract, a wage claim, quantum meruit, unjust enrichment, and breach of an implied duty of good faith and fair dealing. This matter is before me on defendant's motion to dismiss the second cause of action, the wage claim under Wis. Stat. ch. 109.

On October 8, 2009, Hegel's counsel submitted a letter to the Court noting that he believed Hegel's claim under Wis. Stat. ch. 109 would be barred, though not for the reason asserted by defendant. (Doc. # 9.) The letter indicated plaintiff would voluntarily dismiss this claim, but

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<sup>1</sup>Plaintiff originally named Mercury Marine as defendant. However, defendant indicates that Mercury Marine is not a corporate entity, but an operating division of the Brunswick Corporation. (Def.'s Answer at 1 n.1.) I therefore amend the caption to indicate that Brunswick Corporation is the defendant in this matter.

requested that such dismissal be without prejudice to protect potential unnamed plaintiffs. This concern is misplaced, however, as the Court has not yet certified a class under Fed. R. Civ. P. 23. Thus, dismissal with prejudice would have no bearing on individuals not named in the complaint.

Accordingly, defendant's motion to dismiss Hegel's second cause of action, the wage claim under Wis. Stat. § 109.01(3), is **GRANTED**. The second cause of action is dismissed with prejudice.

**SO ORDERED** this 14th day of October, 2009.

s/ William C. Griesbach  
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William C. Griesbach  
United States District Judge